IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 17TH AUGUST 2007 / 26TH SRAVANA 1929

WP(C).No. 4935 of 2006(K)

IA 2146/04 IN CMA.100/2004 of DISTRICT COURT, PALAKKAD
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PETITIONER:

RAJEEVALOCHANAN, S/O.RAMAKRISHNAN,
AGED 45 YEARS, RAMACHENNATH HOUSE,
WEST YAKKARA, PALAKKAD DISTRICT.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENTS:
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1. ISMAIL FAROOK,
S/O.MOHAMMED HANEEFA RAWTHER,
DIARA STREET, KOPPAM AMSOM,
PALAKKAD.

2. C.K.MOHAMMED, S/O.MAMMI HAJI,
METTUPPALAM STRET, KOPPAM AMSOM,
PALAKKAD.

3. CHANDRAMOHAN, S/O.RAMAKRISHNAN,
AGED 49 YEARS, RAMACHENNATH HOUSE,
WEST YAKKARA, PALAKKAD DISTRICT.

BY ADV. SRI.K.MANU.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A P P E N D I X

PETITIONER'S EXHIBITS :

EXT.P1 : TRUE COPY OF THE ORDER DT. 19.8.2004 IN I.A.278/02 IN O.S.NO.661/96.

EXT.P2 : TRUE COPY OF THE I.A.NO.2146/04 IN CMA 100/04.

EXT.P3 : TRUE COPY OF THE MEDICAL CERTIFICATE.

EXT.P4 : TRUE COPY OF THE COUNTER STATEMENT DT. 17.6.2005 FILED IN I.A.NO.2146/04 IN CMA 100/04 OF THE COURT OF THE DIST. JUDGE OF PALAKKAD.

EXT.P5 : TRUE COPY OF THE ORDER DT. 27.1.2006 IN I.A.NO.2146/04 IN CMA 100/04.

TGS

KURIAN JOSEPH J.

W.P.(C) No.4935 of 2006

Dated 17th August, 2007.

J U D G M E N T

Ext.P5 order passed by the lower appellate court, dismissing an application for condonation of 12 days' delay in filing the appeal is under challenge. It is seen from the proceedings that the delay occurred mainly because the petitioner had to spent his time for treating his son. However, the lower appellate court dismissed the application on the ground that there was no proper explanation for the delay from 17.11.2004 to 22.11.2004.

2. Having heard counsel on both sides, I am of the view that it is only in the interests of justice that the delay is condoned and the petitioner is granted an opportunity to prosecute his case on merits. Accordingly, Ext.P5 order is set aside. I.A.2146/04 in C.M.A.100/04 on the file of the District Judge, Palakkad will stand allowed. The District Court will dispose of the appeal on merits within a period of four months from the date of receipt of a copy of the judgment.

KURIAN JOSEPH, JUDGE.

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